

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3

4 In re cases filed by No. C 14-0803 CW
5 CYBER EBOT WATTSON, ORDER TO SHOW
6 Plaintiff, CAUSE WHY COURT
7 SHOULD NOT ISSUE
PRE-FILING ORDER

8 _____ /
9 Between February 21, 2014 and May 5, 2014, Cyber Ebot Wattson
10 filed twenty-four cases in this District. See attached Addendum
11 (listing the twenty-four cases filed by Mr. Wattson since February
12 21, 2014). All of the cases were assigned to this judge for
13 appropriate action. In each of these cases, Mr. Wattson seeks to
14 proceed in forma pauperis.
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16 In light of this litigation history, the Court considers sua
17 sponte whether it is necessary and appropriate to impose a pre-
18 filing order on Mr. Wattson.
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20 LEGAL STANDARDS
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22 Federal courts have the inherent power "to regulate the
23 activities of abusive litigants by imposing carefully tailored
24 restrictions under the appropriate circumstances." DeLong v.
25 Hennessey, 912 F.2d 1144, 1147 (9th Cir. 1990). One such
26 carefully tailored restriction is an order requiring a litigant to
27 seek permission from the court prior to filing any future suits.
28 Id. at 1146-47. As noted by the Ninth Circuit, district courts

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1 "bear an affirmative obligation to ensure that judicial resources
2 are not needlessly squandered on repeated attempts by litigants to
3 misuse the courts." O'Loughlin v. Doe, 920 F. 614, 618 (9th Cir.
4 1990). Nonetheless, pre-filing review orders should rarely be
5 used. Moy v. United States, 906 F.2d 467, 470 (9th Cir. 1990). A
6 pre-filing order "cannot issue merely upon a showing of
7 litigiousness." Id. The plaintiff's claims must not only be
8 numerous, but also be patently without merit. Id.

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10 The Ninth Circuit has established four guidelines "to
11 maintain this delicate balance between broad court access and
12 prevention of court abuse." O'Loughlin, 920 F.2d at 617. Before
13 a court enters a vexatious litigant order: (1) the plaintiff must
14 be given adequate notice to oppose entry of the order; (2) the
15 court must present an adequate record by listing the case filings
16 that support its order; 3) the court must make substantive
17 findings of frivolousness or harassment; and (4) the order must be
18 narrowly tailored to remedy only the plaintiff's particular
19 abuses. Id.; DeLong, 912 F.2d at 1147-49.

22 DISCUSSION

23 I. Notice

24 Before a pre-filing order may be entered, due process
25 requires that the litigant be provided with notice and an
26 opportunity to oppose the order. De Long, 912 F.2d at 1147.
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1 Accordingly, the Court is issuing this Order to Show Cause prior
2 to entering any order.

3 II. Adequate record for review

4 The district court must create a record for review which
5 includes a listing of all the cases and motions that led it to
6 conclude that a pre-filing order was needed. The record must at
7 least show, in some manner, that the litigant's activities were
8 numerous or abusive. See id.

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10 The Court has attached an Addendum to this order. The
11 Addendum consists a report from ECF, the Court's online docket
12 system that lists the twenty-four cases that have led the Court to
13 conclude that a pre-filing order may be necessary.

14 III. Substantive Findings of Frivolousness or Harassment

15 The district court must make substantive findings as to the
16 frivolous or harassing nature of the litigant's actions. It must
17 find the litigant's claims frivolous after looking at both the
18 number and content of the filings, or, alternatively, find that
19 the claims show a pattern of harassment. See id. at 1148.

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21 Looking at the large number of filings and their content, the
22 Court determines that Mr. Wattson's claims are frivolous. As
23 noted above, Mr. Wattson has filed twenty-four cases in an eight-
24 week period. In each case Mr. Wattson filed an application to
25 proceed in forma pauperis. The Court granted the application in
26 each case, but dismissed all of the complaints for failure to
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1 state a claim. In addition, the Court found that Mr. Wattson's
2 complaints lack an arguable basis in law, and an arguable basis in
3 fact. See Jackson v. Arizona, 885 F.2d 639, 640-41 (9th Cir.
4 1999) (complaint is frivolous and subject to dismissal if it is
5 incomprehensible and lacks an arguable basis in law or fact).
6 Thus, the Court made a substantive finding as to the frivolous
7 nature of Mr. Wattson's actions.

8 4. Breadth of Order

9 The district court must narrowly tailor the proposed pre-
10 filing order to "closely fit the specific vice encountered."
11 DeLong, 912 F.2d at 1148. An order preventing a litigant from
12 filing any further actions without leave of court, for example,
13 ordinarily is overly broad and cannot stand. See id.; Moy, 906
14 F.2d at 470-71.

15 When the Ninth Circuit held in Moy that an order preventing a
16 vexatious litigant from filing any actions without leave of the
17 court was overly broad, the court specifically noted, "There is no
18 evidence on this record that Moy has a general history of
19 litigious filing." Moy, 906 F.2d at 471. Similarly, in DeLong,
20 where the Ninth Circuit held that a similar order was overly
21 broad, the litigant's history involved repeated filings related to
22 a specific dispute with particular defendants. DeLong, 912 F.2d
23 at 1145-46. On that record, the district court likewise could not
24 have concluded that DeLong had a general history of litigious
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1 filing. Here, by contrast, Mr. Wattson has filed twenty-four
2 cases containing often incomprehensible allegations related to his
3 assertion that he is not a human but a member of the "Cybernetic
4 Controller Cop Operatives."

5 The "specific vice" encountered by the Court is the volume of
6 incomprehensible complaints filed by Mr. Wattson, without
7 cognizable claims for relief. Although recurring themes, such as
8 Mr. Wattson's identity as a robot or a "cybernet citizen", sexual
9 slavery, abduction and torture, the misidentification of Mr.
10 Wattson as either Aaren or Darren Striplin and hijacked airplanes
11 dominate Mr. Wattson's filings, a pre-filing order cannot be
12 limited to specific subject matter, because the problem of
13 incomprehensibility is not tied to any particular subject matter.
14 On this record, the Court concludes that Mr. Wattson has a general
15 history of litigious filing. This history justifies a general
16 order requiring pre-filing review by this Court of any action
17 filed by Mr. Wattson.
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21 Unless Mr. Wattson shows cause why it should not be issued,
22 the Court intends to issue the following pre-filing order, which
23 will be applicable to any action Mr. Wattson files in this Court:

24 "IT IS HEREBY ORDERED that the Clerk of this Court shall not
25 accept for filing any further complaints filed by Cyber Ebot
26 Wattson, until that complaint has first been reviewed by the
27 Court. A two-stage pre-filing review will be conducted before
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1 leave is granted to file the action. First, if the complaint is
2 related to any of the following subject matters:

- 3 (1) Mr. Wattson's identity as a robot or a "cybernet
4 citizen;"
5 (2) sexual slavery;
6 (3) abduction and torture;
7 (4) the misidentification of Mr. Wattson as either Aaren
8 or Darren Striplin; or
9 (5) hijacked airplanes

10 it will not be filed unless it presents cognizable claims that are
11 not based on merely conclusory allegations. Second, no other
12 complaints filed by Mr. Wattson will be filed unless they contain
13 intelligible factual allegations and claims for relief. All cases
14 filed by Mr. Wattson shall be forwarded to the undersigned for
15 pre-filing review."

16 Within thirty days of the date of this Order, Mr. Wattson may
17 file a statement showing cause why this order should not be
18 issued. If he fails to file the statement or if he fails to show
19 cause why the order should not be filed, the order shall be
20 entered and it shall be applicable in all future actions filed by
21 Mr. Wattson.

22 IT IS SO ORDERED.
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24 Dated: 5/22/2014


25 CLAUDIA WILKEN
26 United States District Judge
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